

PROCEEDINGS OF THE BROWN COUNTY
PUBLIC SAFETY COMMITTEE

Pursuant to Section 19.84 Wis. Stats., a special meeting of the **Brown County Public Safety Committee** was held on Tuesday, August 25, 2009 in Room 200 of the Northern Building, 305 East Walnut Street, Green Bay, WI.

Present: Andy Nicholson-Chair, Carole Andrews, Bill Clancy, Tom DeWane.
Excused: Andy Williams.
Also Present: Bob Heimann, Harold Kaye, Fred Mohr, Shelly Nackers, Jim Nickel, Jayme Sellen.
Supervisor Jack Krueger.

1. **Call Meeting to Order:**
The meeting was called to order by Chair Andy Nicholson at 2:00 p.m.
2. **Approve/Modify Agenda:**

Motion made by Supervisor DeWane and seconded by Supervisor Andrews to approve. MOTION APPROVED UNANIMOUSLY

3. **Discussion of the Termination Agreement with FoxComm including Possible Action.**
Attorney Fred Mohr said he met with Attorney John Bodnar in Appleton last week, and they reviewed the Agreement. Attorney Mohr said he told Attorney Bodnar that the most important issue for Brown County right now is to obtain the data needed to get the system up and running. Attorney Mohr said it is FoxComm's position that FoxComm is to be the legal custodian of Brown County's historical records; and Attorney Mohr said he does not have an issue with this. He added FoxComm does not want Brown County to have FoxComm's historical data; therefore, he included that stipulation in the Termination Agreement.

Supervisor Bill Clancy asked who would be responsible if FoxComm inadvertently released some of Brown County's information. Attorney Mohr said he discussed this with John Luetscher, Brown County Corporation Counsel; and they agreed that Brown County would have absolutely no liability.

Attorney Mohr likened this to a couple getting divorced and said there has been a lot of misunderstanding as to Brown County's rights. Attorney Mohr said Brown County's rights are limited and reviewed what Brown County was actually giving up. He opined that Brown County was not giving up anything of importance.

Concerning the costs, Attorney Mohr said that issue can be addressed at a later date; because if Brown County makes that an issue right now, the new system will not be operational in time.

Supervisor Jack Krueger asked why FoxComm would not want to share their data, since law enforcement indicates that it is advantageous to share data. Attorney Mohr said FoxComm is concerned that the information could be released since Brown County is not the legal custodian and, therefore, not under the same statutory obligations.

Supervisor Carole Andrews asked if FoxComm would be able to go in and read Brown County's data. Attorney Mohr said it is possible, but "let's not lose sight of what we are talking about." He stated that since this is historical incident data, what difference would it make if FoxComm does this? He indicated that if personally identifiable information were released to the public somehow, Brown County would have grounds for a lawsuit.

Attorney Mohr referred to the "Agreement Regarding Brown County's Notice of Termination from FoxComm Consortium" (copy attached) that he distributed, and said this agreement allows Brown County "to move on with our lives." Provided this Committee recommends and FoxComm's Committee recommends that this be adopted, then steps can begin tomorrow afternoon.

When Supervisor Andrews questioned Item No. 5 of the Agreement, she expressed concern that Brown County would be delayed until after December 31st and would be forced to incur additional costs. Attorney Mohr said he is not concerned about this; he would get an injunction; and he opined that "no court would allow our system to go down."

Supervisor Clancy asked how confident Attorney Mohr is that Brown County will be on schedule if the Committee approves this. Attorney Mohr said he has been told that if the Agreement is approved and the configuration files are received in the next few days, Brown County will be right on schedule. When Mr. Clancy asked what would happen if FoxComm delayed this, Attorney Mohr said he would then have to go to Court and try to get an injunction. He opined that there is a good possibility that Brown County would be successful; however, this could cause a delay. He said it is better to operate on a voluntary basis and has been assured by Attorney Bodnar that he sees no roadblocks from the FoxComm Committee.

Supervisor Krueger asked if Jim Nickel, Public Safety Communications Director, could speak to this issue. Chair Nicholson asked Mr. Nickel to approach the Committee, and Mr. Nickel said he was requested not to discuss this. When Chair Nicholson asked Mr. Nickel who told Mr. Nickel not to speak, he said it was County Executive Tom Hinz. Mr. Nickel said this was Attorney Mohr's area of responsibility in terms of offering legal advice; he has operational concerns that he has already expressed. Chair Nicholson asked Attorney Mohr if he knew what the concerns were. Attorney Mohr said one concern that he has already addressed was the fact that FoxComm has Brown County's data. The other area of concern that Attorney Mohr said Mr. Nickel had was the area of cost. Again, Attorney Mohr said he did address that area and recognized that this may be an issue at a later date.

Attorney Mohr asked Mr. Nickel if Brown County gets "those configuration files and Motorola starts doing that even this week, we are not going to be out of line to get our scheduled fully operational data up in time by the end of the year, are we?" Mr. Nickel said no, if we get the data soon that is not a problem. Attorney Mohr said he was told by Attorney Bodnar that "he (Bodnar) believes that with tomorrow's meeting he will have the authority to give the okay to get us into those configuration files."

Supervisor Andrews asked for Bob Heimann's, Information Services Director, input. Mr. Heimann said he thinks Attorney Mohr has really examined this issue, gained a lot of insight into it, and appreciates his efforts. He said Brown County is a little behind schedule because of this, but should be able to meet the end of October cut-over assuming that nothing else arises.

Supervisor Clancy questioned where the funds would come from for this cost if a settlement has to be made. Attorney Mohr said the County Executive has told him that if it is not a lot of money, the County Executive will find the funds.

Supervisor Krueger asked Attorney Mohr if Brown County owed 40 percent of FoxComm's costs under the contract until December 31, 2009. Attorney Mohr said that is correct; however, there are provisions if FoxComm goes over budget. He said we do not give them a blank check; we budget a dollar amount and that is where the cap is.

Motion made by Supervisor Andrews and seconded by Supervisor DeWane to approve. MOTION APPROVED UNANIMOUSLY

4. **A closed session pursuant to sec. 19.85(1)(e), Wis. Stats., to deliberate or negotiate specified public business requiring a closed session for competitive or bargaining reasons to discuss the termination agreement with FoxComm:**

None.

5. **Such other matters as authorized by law. None.**

Motion made by Supervisor Andrews and seconded by Supervisor Clancy to adjourn at 2:34 p.m. MOTION APPROVED UNANIMOUSLY

Respectfully submitted,

Lisa M. Alexander
Recording Secretary

Agreement Regarding Brown County's Notice of Termination from FoxComm Consortium

WHEREAS, on November 6, 2008, a notice of termination by Brown County from the FoxComm Consortium was delivered by Brown County to the Calumet, Outagamie and Winnebago County Clerks, the County Executives of Outagamie and Winnebago County and the County Administrator of Calumet County: and

WHEREAS, the members of the FoxComm Fiscal Advisory Board (FAB) accept the terms of said notice and the termination date of December 31, 2009 relating to the participation of Brown County in the FoxComm Consortium; and

WHEREAS, the County Executives of Brown, Outagamie and Winnebago County and the County Administrator of Calumet County and members of the FoxComm FAB (hereinafter referred to as "FAB") have reviewed a list of hardware, software, equipment and furniture owned by FoxComm and located within Brown County.

NOW, THEREFORE, IT IS HEREBY AGREED TO by and between the County Executives of Brown, Outagamie and Winnebago County and the County Administrator of Calumet County and the FAB members, as follows:

1. Brown County will be considered a fully committed partner in the FoxComm Consortium (hereinafter referred to as "FoxComm") until December 31, 2009 and shall participate in its operation until that date in accordance with all existing agreements.

2. That all hardware, software, equipment and furniture owned by FoxComm and located in Brown County shall be made available for delivery to the remaining FoxComm participants in the third quarter of 2009. Delivery will be procured and managed by FoxComm staff. Relocation costs, which shall include any expenses for reinstallation of equipment, will be paid by FoxComm under the existing cost sharing formula by Brown, Calumet, Outagamie and Winnebago Counties.

3. That all hardware and software licenses currently being held by Brown County on behalf of FoxComm will be transferred to FoxComm by July 1, 2009.

4. To relieve Brown County of additional expenses for FoxComm administration, administrative responsibility as the fiscal agent for FoxComm will be transferred to Calumet County on October 1, 2009. Fiscal administration of all grant or funding opportunities after January 8, 2009 shall be conducted by Calumet County.

5. Network connections to Brown County will be terminated after December 31, 2009, unless a separate written agreement is initiated to continue Brown County's direct access to the system for use of the FoxComm system after date of termination. A procedure for record retrieval during the statutory record retention period, which is usually seven years, shall be developed by FoxComm for retrieval of any Brown County records in the custody of FoxComm after the date of Brown County's termination from FoxComm.

6. Brown County will contract with Motorola, at Brown County's expense, to copy all the configuration files from the FoxComm system for transfer to the new Brown County system (i.e., CAD database and Open Query Form configuration files). FoxComm will cooperate and assist with the orderly transfer of such configuration files. Brown County will remove and delete any configuration data or incident data not required by Brown County. Brown County shall notify FoxComm that the unnecessary files have been deleted at which time a FoxComm representative will be given access to the Brown County system in order to verify that the unnecessary files have been deleted. Brown County agrees to delete the unnecessary files prior to the time the Brown County system becomes fully operational.

7. Brown County will contract with Motorola to copy all agency incident and incident related files from FoxComm for transfer to the new Brown County system. Motorola will create a Brown County only database for the new Brown County system.

Dated this _____ day of _____, 2009.

FoxComm Fiscal Advisory Board

By: _____
Brian Leonhardt, Chairman
Calumet County Board of Supervisors

By: _____
Patty Francour, Vice-Chair
Winnebago County Admin.

By: _____
Gerald Pagel
Calumet County, Sheriff

By: _____
Michael E. Brooks
Winnebago County, Sheriff

By: _____
Howard Mezera
Calumet County Admin.

By: _____
Patrick Brennand
Winnebago County
Board of Supervisors

By: _____
Bradley Gehring
Outagamie County, Sheriff

By: _____
Paul Hirte
Outagamie County
Board of Supervisors

By: _____
Tom Pynaker
Outagamie County Admin.

By: _____
James V. Nickel
Brown County PSC Director

By: _____
Lynn VandenLangenberg
Brown County Admin.